

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

DONALD NORRIS; DARCY	)	CIVIL NO. 11-00156 LEK-KSC
NORRIS,	)	
	)	FINDINGS AND
Plaintiffs,	)	RECOMMENDATION TO DENY
	)	WITHOUT PREJUDICE
vs.	)	DEFENDANT GREG BROWN'S
	)	MOTION FOR RECOVERY OF
BANK OF AMERICA, N.A.	)	ATTORNEYS' FEES AND COSTS
SUCCESSOR-IN-INTEREST	)	
COUNTRYWIDE FINANCIAL	)	
CORPORATION; THE BANK OF	)	
NEW YORK MELLON AS TRUSTEE	)	
FOR THE ALTERNATIVE LOAN	)	
TRUST 2007-HY3 MORTGAGE	)	
PASS-THROUGH CERTIFICATES	)	
SERIES 2007-HY3; BAC HOME	)	
LOANS SERVICING LP; RYAN	)	
MCNALLY; GREG BROWN; JOHN	)	
AND MARY DOES 1-6,	)	
	)	
Defendants.	)	
_____	)	

FINDINGS AND RECOMMENDATION TO DENY  
WITHOUT PREJUDICE DEFENDANT GREG BROWN'S  
MOTION FOR RECOVERY OF ATTORNEYS' FEES AND COSTS

On October 18, 2011, Defendant Greg Brown ("Defendant") filed a Motion for Recovery of Attorneys' Fees and Costs ("Motion"). Rule 54.3(b) of the Local Rules of Practice of the U.S. District Court for the District of Hawaii ("Local Rules") required Defendant to file a Statement of Consultation within 14 days

after the filing of the Motion. Because Defendant failed to do so, the Court will not consider the Motion. Local Rule 54.3(b) ("The court will not consider a motion for attorneys' fees and related non-taxable expenses until moving counsel advises the court in writing that, after consultation, or good faith efforts to consult, the parties are unable to reach an agreement with regard to the fee award or that the moving counsel has made a good faith effort, but has been unable, to arrange such a conference.").

In addition, the Court finds that Defendant's submissions do not fully comply with Local Rule 54.3(d).<sup>1</sup> The Court accordingly RECOMMENDS that the district court DENY Defendant's Motion for failure to comply with the applicable Local Rules.

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<sup>1</sup> For example, defense counsel's time sheets are not organized by litigation phase. See, e.g., id. 54.3(d)(1) (describing the following litigation phases: (A) case development, background investigation and case administration; (B) pleadings; (C) interrogatories, document production and other discovery; (D) depositions; (E) motions practice; (F) attending court hearings; (G) trial preparation and attending trial; and (H) post-trial motions).

Defendant is advised that the Court will not consider any future motion for attorneys' fees and costs until he files a Statement of Consultation that complies with Local Rule 54.3(b). Defendant is cautioned that if the motion does not comply with Local Rule 54.3 and any other applicable rules, the Court has the discretion to deny the motion with prejudice. Local Rule 54.3(g) ("Failure to follow these rules regarding motions for attorneys' fees and/or related non-taxable expenses on more than one occasion in a case may, in the court's sole discretion, result in the denial of such motions with prejudice.").

Based on the foregoing, the Court HEREBY FINDS AND RECOMMENDS that Defendant's Motion be DENIED WITHOUT PREJUDICE.

IT IS SO FOUND AND RECOMMENDED.

Dated: Honolulu, Hawaii, November 21, 2011.



  
Kevin S.C. Chang  
United States Magistrate Judge

CV NO. 11-00156 LEK-KSC; NORRIS, ET AL. V. BANK OF AMERICA, N.A.,  
ET AL.; FINDINGS AND RECOMMENDATION TO DENY WITHOUT PREJUDICE  
DEFENDANT GREG BROWN'S MOTION FOR RECOVERY OF ATTORNEYS' FEES AND  
COSTS